

## Federal Communications Commission

DA 99-1508

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DIS:

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 98-135
Table of Allotments,	)	RM-9300
FM Broadcast Stations.	)	RM-9383
(Lufkin and Corrigan, Texas) <sup>1</sup>	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: July 21, 1999

Released: July 30, 1999

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by Russell L. Lindley ("Lindley"), the Commission has before it for consideration the Notice of Proposed Rule Making, 13 FCC Rcd 13875 (1998), seeking the allotment of Channel 261A at Lufkin, Texas. Lindley filed comments reiterating his intention to apply for Channel 261A at Lufkin, Texas. Corrigan Broadcasting Company ("CBC") filed comments and a counterproposal.<sup>2</sup> Houston Christian Broadcasters, Inc. ("Houston") filed comments and a counterproposal.<sup>3</sup> CBC filed reply comments.

2. CBC's counterproposal requests the allotment of Channel 261A at Corrigan, Texas, as that community's first local service. According to CBC, the City of Corrigan is qualified to receive an FM allotment. CBC states that the City of Corrigan was incorporated in 1938, has a population of 1,764 people based on the 1990 U.S. Census and is governed by a mayor, five city council members, a city clerk and city manager. Further, the community has a police and fire department, its own water and sanitation services, two medical clinics and a public school system.

<sup>1</sup> The community of Corrigan, Texas, has been added to the caption.

<sup>2</sup> The counterproposal filed by CBC was put on Public Notice on November 3, 1998, Report No. 2304 (RM-No. 9383).

<sup>3</sup> Houston's comments were titled "Comments and Counterproposal." However, they have not been treated as a counterproposal. A counterproposal is a proposal for an alternative and mutually exclusive allotment or set of allotments in the context of the proceeding in which the proposal is made. See e.g., Implementation of BC Docket 80-90 to Increase the Availability of FM Broadcast Assignments, 5 FCC Rcd 931 (1990). Houston's comments request Channel 261A be reserved for noncommercial use.

CBC states that the City of Corrigan has a Lions Club and Veterans of Foreign Wars outpost, a city library along with various recreational activities and five churches located within the city. CBC contends that allotment of Channel 261A as a first local service at Corrigan will provide the community an outlet for local expression.

3. Houston, one of three applicants for a noncommercial educational FM station on Channel 201 at Lufkin, Texas, filed comments requesting that Channel 261A be allotted to Lufkin and reserved for noncommercial educational use.<sup>4</sup> Houston further requested that its application for Channel 201 be amended to specify operation on FM Channel \*261A in lieu of Channel 201. According to Houston, the three applications for Channel 201 are frozen, and the implementation of a new noncommercial educational broadcast service to Lufkin has been indeterminately delayed. Houston states that it has attempted to find an alternative channel in the reserved portion of the FM band but has been unsuccessful. Houston believes that amendment of its application for Channel 201 to specify operation on Channel 261A is in the public interest as it will allow for the prompt institution of a new noncommercial service at Lufkin, Texas. In the alternative, if the Commission denies Houston's request to amend its application for Channel 201, Houston requests that Channel 261A be allotted to Lufkin and reserved for noncommercial educational operation in lieu of commercial broadcast operation.

4. CBC, in reply comments, states that Channel 261A will be a ninth local service at Lufkin, while allotment of Channel 261A at Corrigan will trigger allotment priority number 3, first local service. CBC argues that Houston's proposal to allot Channel 261A to Lufkin and reserve it for noncommercial use also represents a ninth service for the community and cannot prevail over the proposal for a first local service at Corrigan. CBC points out that there are three noncommercial radio stations currently authorized at Lufkin, precluding any need for further noncommercial service in the community.

5. Conflicting proposals, such as have been filed in this proceeding, are generally considered under the guidelines set forth in Revision of FM Assignment and Policies and Procedures, 90 FCC Rcd 2d (1982).<sup>5</sup> However, in this instance, since an additional channel is available, there is no need to compare the two communities. Therefore, after consideration of the information filed in this proceeding, we believe the public interest would be served by the allotment of FM channels at Lufkin, Texas, and Corrigan, Texas, enabling additional service at Lufkin and a first local service at Corrigan. Channel 261A can be allotted to Lufkin, Texas, in compliance with the Commission's spacing requirements provided there is a site restriction

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<sup>4</sup> BPED-960830MF, BPED-970312MD and BPED-970417MA.

<sup>5</sup> The priorities are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight given to priorities (2) and (3).]

8.5 kilometers (5.3 miles) south of the community.<sup>6</sup> The site restriction will prevent a conflict with Station KGRI, Channel 260A, Mount Enterprise, Texas, and Station KDVE, Channel 260C3, Henderson, Texas. Although Houston requested reservation of Channel 261A for noncommercial use, Houston failed to make a showing supporting this request.<sup>7</sup> Therefore, the channel is being allotted without a reservation. However, allotment of the channel for commercial use does not preclude the successful applicant for Channel 261A from operating a noncommercial educational station on Channel 261A. In response to CBC's counterproposal, we shall allot Channel 232A to Corrigan, Texas, with a site restriction 15.7 kilometers (9.8 miles) west of the community.<sup>8</sup> The site restriction will prevent a conflict with Station KQXY, Channel 231C1, Beaumont, Texas, and Station KVLL, Channel 234C2, Woodville, Texas.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective September 13, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

Community	Channel Number
Corrigan, Texas	232A
Lufkin, Texas	230A, 257C2, 261A, 286C

7. A filing window for Channel 261A, Lufkin, Texas and Channel 232A, Corrigan, Texas, will not be opened at this time. Instead, the issue of opening a filing window for these channels will be addressed by the Commission in a subsequent order.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

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<sup>6</sup> The coordinates for Channel 261A at Lufkin are 31-16-13 and 94-43-50.

<sup>7</sup> Noncommercial educational stations generally operate within the reserved portion of the FM band (Channels 201-220). Exceptions have been made in cases where the channels in the noncommercial educational band are not available because of foreign allocations (Canadian or Mexican) or potential interference to operations on VHF Television Channel 6.

<sup>8</sup> The coordinates for Channel 232A at Corrigan are 30-59-30 and 94-59-41.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 261A at Lufkin, Texas and Channel 232A at Corrigan, Texas, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

**FEDERAL COMMUNICATIONS COMMISSION**

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau